

Remarks

The office action mailed April 11, 2006 has been carefully reviewed and these remarks are responsive thereto. Claims 45, 46 and 48-65 are pending and stand rejected, with claims 1-44 and 47 having been previously canceled. Applicants herein amend claims 45 and 48-56, 60, 61 and 64. Applicants cancel claims 46, 62 and 63 and add new claim 66. No new matter has been introduced.

The office action rejected claim 45 under 35 U.S.C. § 102(e) based on U.S. Patent 6,317,784 (Mackintosh et al., hereinafter "Mackintosh"). Applicants respectfully traverse, as Mackintosh fails to teach or suggest all features of claim 45. In particular, part (a) of claim 45 recites receiving a telephone message that includes a portion of a musical piece, that is initiated at the location of a first radio receiver with which a person is listening to a radio station playing the musical piece in a radio broadcast, and that is initiated after the portion of the musical piece is played in the radio broadcast.

The office action asserts at page 2 that Mackintosh col. 2 lines 59-61 disclose a telephone message containing at least a portion of a musical piece which has been received by a receiver. However, the cited portion of Mackintosh deals with "supplemental materials" that are provided to a user in a coordinated fashion with delivery of broadcast materials. Although the supplemental materials can include "audio clips," neither this nor any other part of Mackintosh teaches or suggests receiving a telephone message that includes a portion of a musical piece, that is initiated at the location of a first radio receiver with which a person is listening to a radio station playing the musical piece in a radio broadcast, and that is initiated after the portion of the musical piece is played in the radio broadcast. Accordingly, and for at least this reason, claim 45 is allowable.

The office action also rejected claims 49-52 under 35 U.S.C. § 102(e) based on Mackintosh. Claims 49-52 depend from claim 45, and are thus allowable for at least the same reason as claim 45.

The office action rejected claim 48 under 35 U.S.C. § 103 based on Mackintosh in view of U.S. Patent 5,991,737 (Chen). Claim 48 depends from claim 45, and Chen fails to teach or suggest the above described feature of claim 45 not taught or suggested by Mackintosh. Although Chen does discuss a "media facilitator 14" transmitting radio or television broadcasts

to "processing station 22" (see Chen col. 4, lines 3-7), and such transmissions would include portions of such broadcasts, Chen does not teach or suggest receiving a telephone message that includes a portion of a musical piece, after that same musical piece has been played in a radio broadcast, and that is initiated at the location of a first radio receiver with which a person is listening to a radio station playing the musical piece in the radio broadcast. Accordingly, claim 48 is similarly allowable.

The office action rejected independent claim 53 and its dependent claims 54 and 56-59 under 35 U.S.C. § 102(e) based on Mackintosh. Claim 53 recites a music identification unit configured to locate data in a data base identifying a musical piece in response to receipt, via a first telephone, of a message that includes a portion of the musical piece and that designates a location different than the first telephone to which identification of the musical piece is to be sent. This feature is not taught or suggested by Mackintosh. Accordingly, and for at least this reason, claims 53, 54 and 56-59 are allowable.

The office action rejected claim 55 under 35 U.S.C. § 103 based on Mackintosh in view of Chen. Claim 55 depends from claim 53, and Chen fails to teach or suggest the above described feature of claim 53. Accordingly, claim 53 is also allowable.

The office action rejected claims 60, 61, 64 and 65 under 35 U.S.C. § 102(e) based on Mackintosh. Each of these claims recites one or more features similar to the features described above in connection with claims 45 and 53, and is thus allowable for reasons similar to those applicable to claims 45 and 53.

New claim 66 recites receiving a telephone message that includes a portion of a musical piece, that is initiated at the location of a radio receiver with which a person is listening to a radio station playing the musical piece, and that is initiated after the portion of the musical piece is played by the radio station. Thus, and for the same reason as claim 45, claim 66 is also allowable.

It is respectfully submitted that this application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully invited to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

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